

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

BELINDA MCCLELLAN,

Plaintiff,

v.

MICHAEL HINOJOSA,

Defendant.

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CIVIL ACTION NO. 3:10-CV-1089-B

**ORDER ACCEPTING THE FINDINGS, CONCLUSIONS, AND
RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE**


The Court has under consideration the Findings, Conclusions, and Recommendation of United States Magistrate Judge Paul D. Stickney. The District Court reviewed the proposed Findings, Conclusions, and Recommendation for plain error. Finding none, the Court accepts the Findings, Conclusion, and Recommendation of the United States Magistrate Judge. Accordingly, Plaintiff's Amended Complaint is hereby **DISMISSED without prejudice** to refile a Second Amended Complaint **on or before Friday, April 22, 2011**. Plaintiff is warned that this is the second opportunity the Court has given her to amend her Complaint to comport with the Federal Rules of Civil Procedure, and failure to file a Second Amended Complaint that adequately pleads her claims of age discrimination by the above deadline will most likely result in dismissal of her claims with prejudice.

The Court notes that while Plaintiff's Original Complaint alleged claims under the ADEA, which does provide remedies for age discrimination, her Amended Complaint is based solely on Title VII, which does not provide remedies for age discrimination. In filing her Second Amended

Complaint, Plaintiff must ensure that she provides a sufficient facial basis to comply with Federal Rules of Civil Procedure 8 & 12, a cognizable, a legal framework upon which her facts potentially give rise to a claim, and defendants who are amenable to suit under those claims.

SO ORDERED.

DATED March 28, 2011



JANE J. BOYLE
UNITED STATES DISTRICT JUDGE